APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,005	09/18/2006	Alexander Johannes Jozef Bos	NL040303US1	3093

24737   7590   12/07/2010
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
TEKLE, DANIEL T

ART UNIT	PAPER NUMBER
2481	

MAIL DATE	DELIVERY MODE
12/07/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/599,005	BOS, ALEXANDER JOHANNES JOZEF
	Examiner	Art Unit	
	DANIEL TEKLE	2481	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 September 2006</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>18 September 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

        1.☒ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail. Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed September 8, 2010 have been fully considered but they are not persuasive.

Applicant argument regarding "reading program information regarding at least two different sets of data to be recorded on the at least one data carrier in time recording sequence" not disclosed by Bruls.

In response the examiner respectfully disagrees. Bruls discloses "By taking the complexity into account it will be prevented that when encoding a complex program the first part uses more than half of the available bits, while the second part needs to be compressed heavily to fit in the remaining data space; while for less than average complex material the opposite (a first part unnecessarily compressed and the second part having abundant space available) is prevented [paragraph 0010]. Also the time information start and end time of a program defined or to be set by a user [paragraph 0022]; further Bruls discloses The program complexity will be used to control the settings of the compression unit, so as to set a higher compression for a more complex program. If modified information relating to an altered duration of the program or to a modified available data space is applied to the system controller during the encoding process, the system controller will compute a new value for the bit rate and set same.

Therefore as a whole reference and discussed above Bruls discloses recording multiple data with different compression quality in according available space of the recording medium.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent and recent Federal Circuit decisions indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claims recite a series of steps or acts to be performed, the claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, a method of recording multiple sets of data on a at least one data carrier comprising the step of: reading program, calculating the recording length, determine available space, setting a recording quality steps is of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-10 rejected under 35 U.S.C. 102(b) as being anticipated by Bruls (US 2002/0012530).

Regarding Claim 1: Bruls discloses a method of recording multiple sets of data on at least one data carrier (20), comprising the steps of: reading program information regarding at least two different sets of data to be recorded on the at least one data carrier in a timed recording sequence **(paragraph 0010: complexity into account it will be prevented that when encoding a complex program the first part uses more than half of the available bits, while the second part needs to be compressed heavily to fit in the remaining data space; [*complex program and less complex program reads "two different set of data"]*)**, which information comprises the length of time used by each set of data when being played **(paragraph 0022: information relating to the data space via a data space input 27. The time information is, for example, a start and end time of a program to be set by a user, or the duration of the program)**, calculating the recording length of all sets of data **(paragraph 0010 and paragraph 0022: The system controller calculates from this information the data space available for the encoded signal and sets the bit rate via the control input 26)**, determining the available recording space on the at least one data carrier for all unrecorded sets of data of the timed recording sequence **(paragraph 0002 and paragraph 0022: the available data space is divided by the required duration, which duration is derived from the time information presented through the time input. This results in a bit rate (bits per second) at which the available data space**

will be completely filled with a program to be encoded), setting a recording quality for all sets of unrecorded data in the timed recording sequence so as to enable all sets of data to be fitted to the available space**(paragraph 0022: recording complex and less complex program according to user setting; program are set to fill available data space)**, recording a set of data with the set recording quality **(paragraph 0005 and 0010: recording complex and less complex program)**, and repeating the steps of determining, setting and recording for each set of unrecorded data, until all sets have been recorded **(paragraph 0001-0005 and paragraph 0022: compression according user setting)**.

<u>Regarding Claim 2:</u> Bruls discloses a Method according to claim I, wherein the program information concerning one set of data comprises a fixed recording quality **(paragraph 0005: The data space available for storage on the disc is filled by attuning the bitrate of the coded video program to the available data space to achieve a high average picture quality)**, and the step of setting a recording quality comprises setting the fixed recording quality to said one set of data and setting a recording quality for the other sets of data such that said other sets of data can be fitted to the available space **(paragraph 0005: In the event of video material with a lot of activity, the applied settings will often result in a higher actual bitrate than the target bitrate. The compression settings will then be adjusted)**.

<u>Regarding Claim 3:</u> Bruls discloses a Method according to claim 1, further comprising the steps of reading program information regarding another set of data not provided in the timed recording sequence, determining whether the new set of data can be included

in the timed recording sequence at least with the lowest possible recording quality, and,

if possible, including the added set of data in the sequence **(paragraph 0005: In the**

event of video material with a lot of activity, the applied settings will often result

in a higher actual bitrate than the target bitrate. The compression settings will

then be adjusted; paragraph 0022: The program complexity will be used to

control the settings of the compression unit, so as to set a higher compression

for a more complex program. If modified information relating to an altered

duration of the program or to a modified available data space is applied to the

system controller during the encoding process, the system controller will

compute a new value for the bit rate and set same).

Regarding Claim 4: Bruls discloses a Method according to claim 1, further comprising

the steps of identifying a manual recording of a set of data on the at least one data

carder, determining whether unrecorded sets of data in the timed recording sequence

can be recorded with at least the lowest possible recording quality on the at least one

data carrier when the manual recording has ended and changing the recording quality, if

possible and necessary **(See the discussion regarding claim 3-4. In addition**

paragraph 0022: a starting and ending program to be set by a user).

Regarding Claim 5: Bruls discloses a method according to claim 1, wherein the

available recording space is determined by a start marker and an end marker related to

the at least one data carrier **(paragraph 0022: a starting and ending program to be**

set by a user).

Regarding Claim 6: Bruls discloses a Method according to claim 5, wherein the start

marker is a positional pointer and the end marker is an end of carrier marker

(paragraph 0022: a starting and ending program to be set by a user).

<u>Regarding Claim 7:</u> Bruls discloses a method according to claim 5, wherein the start

and end markers are user defined start and end markers **(paragraph 0022: a starting**

and ending program to be set by a user).

<u>Regarding Claim 8:</u> Bruls discloses a method according to claim 5, further comprising

the step of changing the available recording space by moving the start marker

(paragraph 0022: The program complexity will be used to control the settings of

the compression unit, so as to set a higher compression for a more complex

program. If modified information relating to an altered duration of the program or

to a modified available data space is applied to the system controller during the

encoding process, the system controller will compute a new value for the bit rate

and set same).

<u>Regarding Claim 9:</u> Bruls discloses a method according to claim 1, further comprising

the steps of detecting the removal of program information relating to a set of data and

repeating the steps of determining, setting and recording for each set of unrecorded

data for the remaining unrecorded sets of data after said removal **(paragraph 0022:**

The program complexity will be used to control the settings of the compression

unit, so as to set a higher compression for a more complex program. If modified

information relating to an altered duration of the program or to a modified

available data space is applied to the system controller during the encoding

process, the system controller will compute a new value for the bit rate and set

same).

Regarding Claim 10: Bruls discloses a Method according to claim 1, wherein the recording space of the at least one data carrier where the timed recording sequence is to be stored comprises at least one protected area splitting said available recording space into fragments, wherein the step of setting a recording quality comprises adjusting the recording quality for unrecorded sets of data to fit into the fragments and further comprises the step of selecting unrecorded sets of data for storage in fragments having a large enough size **(paragraph 0010: By taking the complexity into account it will be prevented that when encoding a complex program the first part uses more than half of the available bits, while the second part needs to be compressed heavily to fit in the remaining data space; while for less than average complex material the opposite (a first part unnecessarily compressed and the second part having abundant space available) is prevented and paragraph 0022: a starting and ending program to be set by a user)**.

Regarding Claim 11-21: Claims 11-21 reject for the same reason to claims 1-10 respectively as discussed above. Further regarding the claim limitation recorder (16), storage medium (18), program timer (24, 26, 28), controller unit (22) **(paragraph 0024 and Figure 4: reading/writing head 42, storage medium 9, time input information 24, system controller 45)**.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-

1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00

Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Peter-Anthony Pappas can be reached on 571-272-7646. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel Tekle/
Examiner, Art Unit 2481

/Peter-Anthony Pappas/
Supervisory Patent Examiner, Art Unit 2481